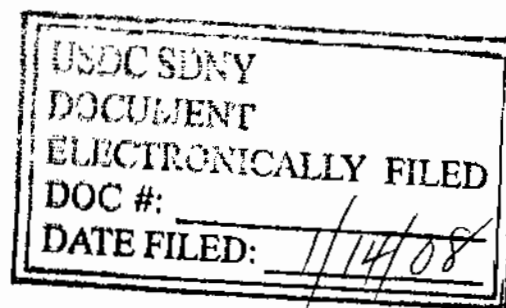




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January 4, 2008

VIA FACSIMILE

Hon. Loretta A. Preska
 U.S. District Court, S.D.N.Y.
 Moynihan U.S. Courthouse
 Room 1320
 500 Pearl Street
 New York, NY 10007-1312

Re: U.S. v. Albir Alkhabbaz, 07-1014 (LAP)

Dear Judge Preska:

Your Court Clerk Megan was kind enough to field my call this morning and to allow me to fax you this letter.

As we prepare for Mr. Alkhabbaz's sentencing in February, we find our hands are tied and we are uniquely impeded in zealously representing our client. Prior counsel, Dale L. Smith, declines to provide us with access to his files in the underlying case. This is vital in numerous regards: By way of example,

- Letters were written by family members. USPO Diane C. Mocydlowski has no independent recollection of seeing them. We haven't seen them and need to see them before soliciting letters.
- Doctor's contact information was given by our client to Mr. Smith. USPO Mocydlowski has no independent recollection of receiving it.
- Correspondence was written pertaining to a plea agreement which Mr. Alkhabbaz never saw.
- An affidavit with voluminous exhibits was provided by AUSA Facciponti confirming the identities of all defrauded individuals. Mr. Alkhabbaz has never seen it and understands that an appeal is being prepared by Mr. Smith on the basis of an incorrect number of victims – which, if the Government is correct, may be frivolous.

THELSEN

Hon. Reid Brown Rayzman & Sten...

Hon. Loretta A. Preska

January 4, 2008

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- Mr. Alkhabbaz is unaware that the Court amended the pre-sentence report by deleting the 2 point increase in Paragraph 88.

The U.S. Attorney's Office suggests that Mr. Smith should be our source for all information pertaining to the prior case. The appeal record does not contain the materials we need. An ethics complaint, while potentially appropriate, is time consuming and awkward when Mr. Alkhabbaz's family has been psyched for an appeal by Mr. Smith.

Respectfully, since the information we seek is essential for our preparing for sentencing, please authorize us to issue a subpoena *duces tecum* for the materials we require returnable within the next ten days.

Thank you for your consideration. Life is never dull. Happy New Year.

Respectfully submitted,

JoAnne C. Adlerstein

JCA/db]

cc: Dale Smith, Esq.
Albir Alkhabbaz
Joseph Facciponti, AUSA

NY #1229700 v1

Mr. Smith shall inform the Court by letter of his response to the above no later than January 18, 2008.

January 13, 2008

So ordered
Loretta A. Preska
USA